

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

JOHN DOE #1, an individual, JOHN DOE #2,
an individual, and PROTECT MARRIAGE
WASHINGTON,

Plaintiffs,

vs.

SAM REED, in his official capacity as
Secretary of State of Washington, DEBRA
GALARZA, in her official capacity as Public
Records Officer for the Secretary of State of
Washington,

Defendants.

No. **C09 5456**
**DECLARATION OF SCOTT F. BIENIEK
IN SUPPORT OF PLAINTIFFS'
MOTION FOR A TRO AND
PRELIMINARY INJUNCTION**

NOTE ON MOTION CALENDAR: [DATE]

I, Scott F. Bieniek, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am an attorney at law licensed to practice in the State of Illinois. I am an attorney at the law office of Bopp, Coleson & Bostrom in Vigo County, Indiana. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I can and would testify competently thereto.

2. On Thursday, July 23, 2009, I spoke directly with Defendant Debra Galarza, Public Records Officer for the Secretary of State of Washington. Defendant Galarza stated that referendum petitions, such as the petition submitted to place Referendum 71 on the ballot, are "public records" within the meaning of the Public Records Act. Defendant Galazra stated that

Declaration of Scott F. Bieniek in
Support of Plaintiffs' Motion for
TRO and Preliminary Injunction

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1 the Secretary of State's office would first image the Referendum 71 Petition (i.e., scan the ballot
 2 petition), at which point, it would be made available to the public pursuant to the provisions of
 3 the Public Records Act. Defendant Galarza stated that the Secretary of State's office generally
 4 provides one (1) week for the imaging process, but, she anticipated that the process could take as
 5 little as three (3) days. Defendant Galarza stated that it could be possible to have copies of the
 6 ballot petition available in various formats (e.g., micro fiche, cd-rom, hard drive) as early as
 7 Wednesday, July 29, 2009.

8 3. A true and correct copy of a blog entry, David Ammons, *Who Signs R-71? Foës May*
 9 *Post it Online*, California Secretary of State Blogs, June 2, 2009 (available at [http://blogs.](http://blogs.secstate.wa.gov/FromOurCorner/index.php/2009/06/who-signs-r-71-foes-may-post-it-online/)
 10 [secstate.wa.gov/FromOurCorner/index.php/2009/06/who-signs-r-71-foes-may-post-it-online/](http://blogs.secstate.wa.gov/FromOurCorner/index.php/2009/06/who-signs-r-71-foes-may-post-it-online/)), is
 11 attached hereto as Exhibit 1.

12 4. A true and correct copy of a website, WhoSigned.org, <http://www.whosigned.org> (last
 13 visited July 26, 2009), is attached hereto as Exhibit 2.

14 5. A true and correct copy of a website, KnowThyNeighbor.org, [http://www.knowthy](http://www.knowthyneighbor.org)
 15 [neighbor.org](http://www.knowthyneighbor.org) (last visited July 26, 2009), is attached hereto as Exhibit 3.

16 6. A true and correct copy of a press release, Press Release, KnowThyNeighbor.org,
 17 *Whosigned.org Refutes Intimidation Charges; Will Post Names of Petition Signers as Planned*,
 18 June 8, 2009, is attached hereto as Exhibit 4.

19 7. A true and correct copy of a newspaper article, Jim Camden, *Outing Referendum*
 20 *Petition Signers Works Both Ways*, The Spokesman-Review, June 7, 2009, is attached hereto as
 21 Exhibit 5.

22 8. A true and correct copy of a newspaper article, Richard Roesler, *Group Will Publish*
 23 *Names of Partner-rights Opponents*, The Spokesman-Review, June 3, 2009, is attached hereto as
 24 Exhibit 6.

25 9. A true and correct copy of a newspaper article, Lornet Turnbull, *Gay-rights Strategy*
 26 *Raises Issue of Privacy in Democratic Process*, The Seattle Times (June 7, 2009), is attached
 27 hereto as Exhibit 7.

1 10. A true and correct copy of a newspaper article, Curt Woodward, *Gay Rights Supporters*
 2 *Plan to Out Referendum Signers*, The News Tribune, June 2, 2009, is attached hereto as Exhibit
 3 8.

4 11. A true and correct copy of the editorial, Editorial, *Publicizing Petition Signers Will*
 5 *Bring Nothing But Trouble*, Yakima Herald-Republic, June 9, 2009, is attached hereto as Exhibit
 6 9.

7 12. A true and correct copy of the editorial, Editorial, *Don't Try to Intimidate People Who*
 8 *Sign Initiative Petitions*, The Seattle Times, June 19, 2009, is attached hereto as Exhibit 10.

9 13. A true and correct copy of the letter to the editor, Chriten F. Kaufman, *Gay Rights:*
 10 *Group's Action Could Be Inflammatory*, The News Tribune, June 6, 2009, it attached hereto as
 11 Exhibit 11.

12 14. True and correct copies of the Declarations of John Doe #1 through John Doe #9, filed
 13 in Support of Plaintiffs' Motion for Preliminary Injunction in the case of *ProtectMarriage.com,*
 14 *et al. v. Debra Bowen, et al.*, No. 2:09-cv-00058 (E.D. Cal.), are attached hereto as Exhibit 12.
 15 For the Court's convenience, Plaintiffs' counsel has consecutively paginated Exhibit 12 by
 16 placing "Exhibit 12, Page x" in the lower right footer.

17 15. True and correct copies of the Declarations of John Doe #10 through #58, filed in
 18 Support of Plaintiffs' Motion for Summary Judgment in the case of *ProtectMarriage.com, et al.*
 19 *v. Debra Bowen, et al.*, No. 2:09-cv-00058 (E.D. Cal.), are attached hereto as Exhibit 13. For the
 20 Court's convenience, Plaintiffs' counsel has consecutively paginated Exhibit 13 by placing
 21 "Exhibit 13, Page x" in the lower right footer.

22 16. A true and correct copy of the domain registration for WhoSigned.org taken from the
 23 website NetworkSolutions.com's "WhoIs Directory," is attached hereto as Exhibit 14.

24 17. A true and correct copy of the slip opinion in the case of *Indep. Newspapers, Inc. v.*
 25 *Brodie*, 966 A.2d 432 (Md. 2009), is attached hereto as Exhibit 15.

26 18. A true and correct copy of the slip opinion in the case of *Center for Individual*
 27 *Freedom, Inc. v. Ireland*, Nos. 1:08-cv-00190 & 08-1133 (S.D. W.Va. Oct. 17, 2008), is attached
 28 hereto as Exhibit 16.

19. A true and correct copy of the slip opinion in the case of *Ass'ns and Community Orgs. v. Browning*, No. 08-445 (N.D. Fla. Oct. 29, 2008), is attached hereto as Exhibit 17.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.

Executed this 28th day of July, 2009.

Scott F. Bieniek
Scott F. Bieniek
Counsel for All Plaintiffs